

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

KEITH ORLAND, on behalf of himself
and all others similarly situated,

Plaintiff,

vs.

ATI TECHNOLOGIES SYSTEMS
CORP.

Defendant.

CASE NO. 5:06-CV-01303 JW

STIPULATION AND ~~PROPOSED~~
ORDER RE: CASE MANAGEMENT

WHEREAS, the related actions *Orland v. ATI Tech. Sys. Corp.*, Case No. 5:06-CV-01303 JW (N.D.CA. February 22, 2006) and *Batsalkin et al. v. ATI Tech., Inc. et al.*, Case No. 5:06-CV-01849 PVT (N.D.CA. filed March 10, 2006) are both pending in this District; and,

WHEREAS, counsel for the respective plaintiffs have all concluded that it is in the best interests of the respective parties and absent putative class members that the *Orland* and *Batsalkin* actions be reassigned and consolidated for all purposes and proceed as contemplated herein; and,

WHEREAS, it is anticipated that additional related actions may be transferred to, removed to or filed in this Court; and,

WHEREAS, the interests of fair and efficient administration of the actions and the avoidance of unnecessary duplicative efforts, warrant the consolidation of the actions, establishment of an organizational structure for plaintiffs' counsel, and the setting of a status conference to discuss, among other things, schedules for the filing of pleadings, motion practice and discovery, and good cause appearing therefor;

IT IS HEREBY ORDERED AS FOLLOWS:

I. CONSOLIDATION AND TREATMENT OF SUBSEQUENT ACTIONS

1. The Court finds that *Orland v. ATI Tech. Sys. Corp.*, Case No. 5:06-CV-01303 JW (N.D.CA. February 22, 2006) and *Batsalkin et al. v. ATI Tech., Inc. et al.*, Case No. 5:06-CV-01849 PVT (N.D.CA. filed March 10, 2006) are related actions pursuant to Civil L.R. 3-12(a) in that the actions concern substantially the same parties, transactions and events, and it appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different judges. Pursuant to Civil L.R. 3-12(f)(3), the Clerk shall reassign the *Batsalkin* action to this Court, the Hon. James Ware presiding, and shall notify the parties and the affected judges accordingly. This Court hereby consolidates the *Orland* and *Batsalkin* actions and the actions shall be referred to herein as the Consolidated Action. Each document filed by a party to this litigation shall bear the following caption:

In Re ATI Tech. HDCP Litigation

No. 5:06-CV-01303-JW

2. The terms of this Order shall apply to all related actions later instituted in, removed to, or transferred to this Court, subject to the following procedures:

1 a. When such a case is filed in, removed to, or transferred to this Court,
2 the Clerk of the Court shall:

- 3 (1) place a copy of this Order in the separate file for such action;
4 (2) provide a copy of this Order by mail or electronically pursuant
5 to the local rules to counsel for plaintiff(s) in the newly filed,
6 removed or transferred action and to any defendant(s) in the
7 newly filed, removed or transferred action; and
8 (3) make an appropriate entry on the docket for the Consolidated
9 Action.

10 b. Each new case that is related to the Consolidated Action which is
11 filed in, removed to or transferred to this Court, shall be consolidated
12 with the Consolidated Action and this Order shall apply thereto,
13 unless a party in such newly-filed, removed or transferred action
14 objects to consolidation, as provided for herein, or any provision of
15 this Order, within ten (10) days after the date upon which a copy of
16 this Order is served on counsel for such party, by filing an
17 application for relief and this Court deems it appropriate to grant
18 such application.

19 3. Counsel shall call to the attention of the Court and the Clerk the filing,
20 removal or transfer of any case which might properly be consolidated with the
21 Consolidated Action. Mailing or other delivery of a copy of this Order by defendants'
22 counsel or plaintiffs' Co-Lead Counsel (see II., below), as appropriate, to the counsel in
23 any newly-filed, removed or transferred action shall constitute valid notice thereof for
24 purposes of establishing its applicability to such action in accordance herewith.

25 4. A status conference is set for September 18, 2006 10:00am at p.m. The agenda
26 for the status conference shall include a schedule for the filings of pleadings or other
27 motion practice, a discovery plan, a schedule for class certification, the potential for
28 settlement mediation, and such other matters as the parties or the Court deem appropriate.

II. CONSOLIDATED COMPLAINT AND RESPONSE THERETO

1. All plaintiffs shall jointly file by May 29, 2006 a consolidated complaint, which shall be the only proposed class complaint to which defendants shall respond.

2. Defendants need not respond to any of the related pending or subsequently filed complaints. Defendants shall answer or otherwise respond to the consolidated complaint by July 17, 2006. Defendants' response to the consolidated complaint shall be deemed to be their response to any later filed complaint in any action that is thereafter consolidated with this Consolidated Action.

III. ORGANIZATION OF PLAINTIFFS' COUNSEL

1. Under Federal Rule of Civil Procedure 23(g)(2), *inter alia*, Interim Class Counsel and Plaintiffs' Co-Lead Counsel shall be Kamber & Associates, LLC and Parisi & Havens LLP (collectively, "Co-Lead Counsel"). Co-Lead Counsel, acting on behalf of plaintiffs, shall have the following duties:

- a. To coordinate all proceedings, including preparing, structuring, and presenting pretrial and other management-related orders;
- b. To encourage full cooperation and efficiency among all counsel;
- c. To create any necessary committees and appoint committee chairs and otherwise delegate responsibilities for specific tasks in a manner to assure that pretrial and trial preparation is conducted effectively, efficiently, and economically;
- d. To delegate work responsibilities and monitor the activities of counsel to assure that schedules are met and unnecessary expenditures of time and expense are avoided;
- e. To act as spokespersons at all court conferences;

- f. To call meetings of themselves and/or other counsel as appropriate or necessary from time to time;
- g. To initiate and conduct settlement negotiations with counsel for the defendants;
- h. To determine plaintiffs' position on all matters arising during this litigation (after such consultation with other counsel as they deem appropriate) and present such position orally and/or in writing to the Court and opposing parties;
- i. To consult with and employ experts, as necessary;
- j. To initiate, coordinate and conduct discovery;
- k. To represent plaintiffs at trial and on any appeal of this matter;
- l. To negotiate and execute agreements with local counsel or other cooperating attorneys;
- m. To submit a fee application on behalf of plaintiffs' counsel and allocate any fees that may be awarded by the court; and
- n. To perform such other duties as are necessary in connection with the prosecution of this litigation.

2. Plaintiffs' Executive Committee shall be the Law Offices of Joshua H. Haffner and the Law Offices of Alan Himmelfarb. Co-Lead Counsel shall convene and consult with the Executive Committee members as is necessary to ensure the efficient coordination and prosecution of this litigation.

3. Co-Lead Counsel shall be the contact between plaintiffs' counsel and defendants' counsel as well as the spokespersons for plaintiffs' counsel. All agreements reached by defendants with the Co-Lead Counsel shall be binding on all other plaintiffs' counsel in the Consolidated Action.

4. Co-Lead Counsel are hereby designated as the counsel for plaintiffs in the Consolidated Action upon whom all notices, orders, pleadings, motions, discovery, and memoranda relating to the Consolidated Action shall be served, and defendants shall

1 effect service of papers on plaintiffs in the Consolidated Action by serving each of the
2 Co-Lead Counsel.

3 5. No motion or request for discovery shall be served or filed by plaintiffs, or
4 other pretrial proceedings initiated by plaintiffs, except by or with the authorization of
5 Co-Lead Counsel.

6 6. The organizational structure set forth in this section applies to all plaintiffs'
7 counsel in the Consolidated Action, including any counsel in any action subsequently
8 governed by this Order.

9 7. No communications among plaintiffs' counsel shall be taken as a waiver of
10 any privilege or protection to which they would otherwise be entitled.

11
12 **IV. ADMISSION OF ATTORNEYS AND APPEARANCE**

13
14 Each attorney acting as counsel for any party to the Consolidated Action who is a
15 member in good standing of the bar of any United States District shall be deemed
16 admitted *pro hac vice* before this Court, without further action, upon payment of the
17 admission fee, in connection with these proceedings.

18
19 **V. MODIFICATION OF THIS ORDER**

20
21 This Order may be modified, supplemented or superseded by order of the Court or
22 upon application of any party for good cause shown.

1 **IT IS SO STIPULATED.**

2
3 Dated: April 7, 2006

KAMBER & ASSOCIATES, LLC

4
5 By: /S/
SCOTT A. KAMBER

6 19 Fulton Street, Suite 400
7 New York, New York 10038
8 Telephone: (877) 773-5469
Facsimile: (212) 202-6364

9 Attorneys for Plaintiff Keith Orland, on behalf
10 of himself and all others similarly situated

11 Dated: _____, 2006

LAW OFFICES OF ALAN HIMMELFARB

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13 By: _____
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16 Attorneys for Plaintiff Keith Orland, on behalf
17 of himself and all others similarly situated

18 Dated: _____, 2006

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24 Attorneys for Plaintiffs Stanley Batsalkin and
25 Kenny Vargas, on behalf of themselves and all
26 others similarly situated
27
28

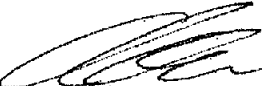
1 **IT IS SO STIPULATED.**

2
3 Dated: _____, 2006 KAMBER & ASSOCIATES, LLC

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5 By: _____
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13 Attorneys for Plaintiff Keith Orland, on behalf
14 of himself and all others similarly situated

15 Dated: 4/7, 2006 LAW OFFICES OF ALAN HIMMELFARB

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24 Attorneys for Plaintiff Keith Orland, on behalf
25 of himself and all others similarly situated

26 Dated: _____, 2006 PARISI & HAVENS LLP

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Attorneys for Plaintiffs Stanley Batsalkin and
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Kenny Vargas, on behalf of themselves and all
others similarly situated

1 Dated: April 7, 2006

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4 JOSHUA H. HAFFNER

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10 Kenny Vargas, on behalf of themselves and all
11 others similarly situated

12 IT IS SO STIPULATED WITH RESPECT TO SECTIONS I, II, IV and V, and ¶¶ 3-4 of
13 SECTION III:

14 Dated: _____, 2006

SHEARMAN & STERLING LLP

15 By: _____
16 JEFFREY S. FACTER

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19 Telephone: (415) 616-1100
20 Facsimile: (415) 616-1199

21 Attorneys for Defendants ATI Technologies,
22 Inc., ATI Technologies Systems Corp., ATI
23 Research Silicon Valley Inc., and ATI Research,
24 Inc.

25 IT IS SO ORDERED.

26 Dated: 04/18/06

27 James Ware
28 HONORABLE JAMES WARE
UNITED STATES DISTRICT COURT

Page 8

1 Dated: _____, 2006

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13 Dated: April 7, 2006

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19 Attorneys for Defendants ATI Technologies,
20 Inc., ATI Technologies Systems Corp., ATI
21 Research Silicon Valley Inc., and ATI Research,
Inc.

22 IT IS SO ORDERED.
23

24 Dated: _____
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27 HONORABLE JAMES WARE
28 UNITED STATES DISTRICT COURT

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